IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWP No.24/2002

Reserved on.19.9.2007

Decided on.10.10.2007

Daulat Ram and others. **…Petitioners.**

Versus

Director Consolidation of Holdings and others

…Respondents

Coram

The Hon'ble Mr. Justice Rajiv Sharma, J.

Whether approved for reporting ?[1]*. no*

For the petitioner : **Mr. Karan Singh, Advocate vice Mr. Bimal Gupta, Advocate for the petitioners.**

For the respondents **Mr. M.S. Chandel, Advocate General with Mr. M.A. Khan and Ms. Meenakashi Sharma, Deputy Advocate Generals for respondent No.1.**

Mr. K.S. Banyal, Advocate for respondents No.2 and 3.

Rajiv Sharma, J.

A challenge has been laid to the order passed by the Director Consolidation of Holdings dated 20th September, 2001 in case No. 130/2000.

The brief facts necessary for the adjudication of this petition are that the consolidation operation was started in Tikka Samoh, Tappa Bani, Tehsil Barsar, District Hamirpur, H.P. under the Himachal Pradesh Holdings (Consoldiation and Prevention of Fragmentation) Act, 1971. Shri Chhangnian Ram, predecessor-in-interest of the petitioners was aggrieved since he was not allotted khasra No. 560 (old) in repartition under section 30 of the Act vide order dated 3rd August, 1984 by the

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[1] ***Whether the reporters of Local Papers may be allowed to see the judgment***? no

Consolidation Officer. Sh. Chhangnian Ram filed an appeal against the order of the Consolidation Officer before the Settlement Officer (Consolidation of Holdings), Hamirpur. The case set out by Sh. Chhangnian in his appeal was that khasra No. 560 (old) has wrongly been allotted to Shri Prithi Singh, the predecessor-in-interest of respondents No.2 and 3. The appeal was decided in favour of Sh. Chhangnian Ram and Settlement Officer allotted new khasra No. 437/2 measuring 2 kanals 7 marals to Sh. Chhangnian vide order dated 15.5.1985. In consolidation operation khasra No. 1119/599 and khasra No. 560 were clubbed together and new khasra No. 437 was carved out measuring 3 kanals 1 marla. The mutation was attested in favour of Sh. Chhangnian Ram pursuant to order dated 15.5.1985 passed by the Settlement Officer showing him to be the owner of Khasra No. 437/2 measuring 2 kanals 7 marlas. The predecessor in interest of respondents No.2 and 3 Sh. Prithi Singh filed an appeal against the order dated 15.5.1985 before the Additional Director of Holdings, Himachal Pradesh. The appeal was accepted by the Additional Director of Holdings, H.P. on 30.7.1986 and the case was remanded to the Settlement Officer. The Settlement Officer vide order dated 18.9.1995 accepted the appeal of Shri Prithi Singh and allotted khasra No. 931/437 measuring 2 kanals 7 marals to Shri Prithi Singh. The order dated 18.9.1995 was assailed before the Additional Director Consolidation of Holdings in an appeal under section 30 (3) of the Act. The Additional Director Consolidation of Holdings dismissed the appeal on 27.4.2000. A revision was preferred by the petitioners before the Director Consolidation of Holdings and the same was dismissed by the Director on 20.9.2001.

Mr. Karan Singh, Advocate had strenuously argued that the order passed by the Settlement Officer dated 18.9.1995 was contrary to law, more particularly, according to him the Settlement Officer has passed the

consent order on 15.5.1985. He had assailed the order dated 27.4.2000 and 20.9.2001 passed by the Additional Director and Director Consolidation of Holdings primarily on the ground that those are not based upon the correct appreciation of the material brought on record.

The learned Advocate General and Mr. K.S. Banyal, Advocate appearing on behalf of the respondents have supported the orders passed on 18.9.1995, 27.4.2000 and 20.9.2001. The learned Advocate General had strenuously argued that while passing the orders, authorities have taken into consideration the spirit of the H.P. Holdings (Consolidation and Prevention of Fragmentation) Act, 1971. Mr. K.S. Banyal had argued that khasra No. 560 (old) was adjoining to khasra Nos. 549 and 546 owned by his clients.

I have heard the learned counsel for the parties and perused the record.

Though it appears that S/Sh. Prithi Singh and Chhangnian Ram had agreed to amendment on the basis of which khasra No. 560 old was allotted to Shri Chhangnian Ram but no statement of the parties was recorded as has rightly been observed by the Additional Director Consolidation of Holdings in his order dated 30.7.1986. Shri Prithi Singh had filed an affidavit before the Additional Director to the effect that he had never agreed to seek amendment on the basis of which khasra No. 560 (old) was allotted to Shri Chhangnian and accordingly the Additional Director had remanded the matter back to the Settlement Officer on 30.7.1986. The Settlement Officer had visited the spot in the presence of the parties on 29.5.1995 and consequently passed the order on 18.9.1995. He had recorded the statements of the parties at the time of carrying out the spot inspection. The Settlement officer on measuring khasra Nos. 560 and 1032 on the spot had come to the just conclusion

that it was more appropriate to allot khasra No. 560 to the respondents. The order passed by the Settlement Officer is a speaking order. The Additional Director Consolidation after perusing the record had dismissed the appeal on 27.4.2000 primarily relying upon the fact that the spot was inspected by the Settlement Officer on 25.9.1995 in the presence of the parties. The parties were duly represented before the Additional Director of Holdings as is evident from the order. The Director Consolidation of Holdings has correctly upheld the order passed by the Settlement Officer. The khasra No. 560 old was a major chunk of land and was adjoining to khasra Nos. 549 and 546 as is evident from the copy of old map. Khasra No. 560 old is also in close proximity to the *abadi* of the respondents. The authorities below have correctly appreciated the facts placed on record and as such the orders passed by them are liable to be upheld. There is neither any jurisdictional error nor any procedural irregularity in the orders passed by the Settlement Officer, Additional Consolidation and Director of Holdings dated 18.9.1995, 27.4.2000 and 20.9.2001. The orders have been passed taking into consideration the scheme of the Himachal Pradesh Holdings (Consolidation and Prevention of Fragmentation) Act, 1971 whereby the endeavour has to be made by the authorities to consolidate the holdings of the parties and to prevent the same from fragmentation.

Consequently there is no merit in the writ petition and accordingly the same is dismissed with no order as to costs.

(Rajiv Sharma), Judge

October 10, 2007
Awasthi